

DISTRICT COURT OF GUAM
TERRITORY OF GUAM
AMENDED CRIMINAL MINUTES
SENTENCING

FILED

DISTRICT COURT OF GUAM

MAR -7 2006 *AS*

MARY L.M. MORAN
CLERK OF COURT

CASE NO. CR-05-00039

DATE: 03/06/2006

HON. JAMES L. ROBART, Designated Judge

Court Reporter: Wanda Miles

Hearing Electronically Recorded: 9:24:00 - 9:38:52

Law Clerk: NONE PRESENT

Courtroom Deputy: Virginia T. Kilgore

CSO: B. Benavente / L. Ogo

***** APPEARANCES *****

DEFT: SEAN MICHAEL COLE aka
SHAWN COLE

ATTY: HOWARD TRAPP

(X) PRESENT (X) CUSTODY () BOND () P.R.

(X) PRESENT (X) RETAINED () FPD () CJA APPOINTED

U.S. ATTORNEY: MARIVIC DAVID

AGENT: JOHN DUENAS, IMMIGRATION AND
CUSTOMS ENFORCEMENT

U.S. PROBATION: MARIA CRUZ / JUDY OCAMPO

U.S. MARSHAL: J. CURRY / V. ROMAN

INTERPRETER: _____

LANGUAGE: _____

(X) COURT STATES THE APPROPRIATE BASE OFFENSE LEVELS

Base offense level:

Total offense level: 31

Criminal History Category: IV

NO OBJECTIONS BY THE GOVERNMENT AND DEFENSE

(X) ATTORNEY FOR DEFENDANT ADDRESSES THE COURT:

Did not contest the guideline range, however, requested the Court to grant the Government's motion for a downward departure.

(X) DEFENDANT ADDRESSES THE COURT AND APOLOGIZES

(X) GOVERNMENT ADDRESSES THE COURT AND MAKES ITS RECOMMENDATION:

Recommended a term of 151 months pursuant to the plea agreement.

() LETTER(S) OF RECOMMENDATION RECEIVED BY THE COURT

NOTES/OTHER MATTERS:

The Court granted the Government's downward departure motion. The government moved to dismiss Counts I, III and IV in this case and to dismiss the superseding indictment in criminal case number 05-00049. GRANTED.

Defense requested the Court for a judicial recommendation for Dublin or somewhere in Northern California. No objection. GRANTED.

**Amended to correct defendant's alias*

SENTENCE: CR-05-00039

DEFENDANT: SEAN MICHAEL COLE aka SHAWN COLE

- (X) DEFENDANT COMMITTED TO THE BUREAU OF PRISONS FOR A TERM OF 160 MONTHS.
- (X) COURT RECOMMENDATION TO THE BUREAU OF PRISONS AT DUBLIN or SHERIDAN.
- (X) UPON RELEASE FROM IMPRISONMENT, DEFENDANT IS PLACED ON SUPERVISED RELEASE FOR A TERM OF TEN YEARS.

THE TERM OF SUPERVISED RELEASE WILL INCLUDE THE FOLLOWING CONDITIONS:

1. DEFENDANT SHALL NOT COMMIT ANY FEDERAL, STATE OR LOCAL CRIME.
2. DEFENDANT SHALL REFRAIN FROM ANY UNLAWFUL USE OF A CONTROLLED SUBSTANCE AND SHALL SUBMIT TO ONE DRUG TEST WITHIN 15 DAYS OF RELEASE FROM IMPRISONMENT AND AT LEAST TWO PERIODIC DRUG TESTS THEREAFTER, NOT TO EXCEED EIGHT DRUG TESTS PER MONTH, AS DIRECTED BY THE PROBATION OFFICER.
3. DEFENDANT SHALL NOT POSSESS A FIREARM OR OTHER DANGEROUS WEAPON.
4. DEFENDANT SHALL COOPERATE IN THE COLLECTION OF DNA AS DIRECTED BY THE U.S. PROBATION OFFICE.
5. DEFENDANT SHALL COMPLY WITH THE STANDARD CONDITIONS OF SUPERVISED RELEASE AS SET FORTH BY THE U.S. SENTENCING COMMISSION AND PURSUANT TO 18 U.S.C. § 3583.
6. DEFENDANT SHALL PARTICIPATE IN A PROGRAM APPROVED BY THE U.S. PROBATION OFFICE FOR SUBSTANCE ABUSE, WHICH MAY INCLUDE TESTING TO DETERMINE WHETHER THE DEFENDANT HAS REVERTED TO THE USE OF DRUGS OR ALCOHOL.
7. DEFENDANT SHALL PERFORM 200 HOURS OF COMMUNITY SERVICE.

IT IS FURTHER ORDERED THAT THE DEFENDANT PAY TO THE UNITED STATES A SPECIAL ASSESSMENT FEE OF \$100.00 TO BE PAID IMMEDIATELY AFTER SENTENCING.

PURSUANT TO SECTION 5E1.2(f) OF THE GUIDELINE RANGE, ALL FINES ARE WAIVED SINCE IT HAS BEEN DETERMINED THAT THE DEFENDANT DOES NOT HAVE THE ABILITY TO PAY.

COURT STATES THE JUSTIFICATION OF SENTENCE IMPOSED. DEFENDANT ADVISED OF HIS APPEAL RIGHTS. COURT ORDERS THAT A COMPLETE AND CORRECTED COPY OF THE PRESENTENCE REPORT BE PREPARED FOR THE BUREAU OF PRISONS AND THE U.S. SENTENCING COMMISSION. COURT ORDERS THAT ANY OTHER COPY OF THE PRESENTENCE REPORT SHALL REMAIN CONFIDENTIAL. NO OBJECTIONS. DEFENDANT REMANDED TO THE CUSTODY OF THE U.S. MARSHAL.